THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 03.04.2007

+ **WP (C) 6261/2006**

SHRI NARENDER KUMAR ...Petitioner

- versus -

GOVERNMENT OF NCT OF DELHI & ANR ...Respondents

Advocates who appeared in this case:
For the Petitioner : Mr Sanjiv Kumar
For the Respondent Nos.1 & 2 : Mr Ramesh K. Sharma

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

1. The relief sought in this petition is that the respondents be directed to allot the Fair Price Shop (FPS) in Circle-52, B-Block, Sadatpur, Delhi in favour of the petitioner on the ground that he was the only successful candidate. The other relief that is sought is that the respondents be restrained from renotifying the said FPS and / or allotting the same to any third party.

2. The facts in brief are that two vacancies were notified for Fair Price Shops in the said Circle-52. One was reserved for Scheduled Castes and the other was under the General Category. The last date for receiving applications was 31.12.2004 upto 2.00 p.m. The applicants were required to fill in the prescribed application forms and annex various documents and affidavits. In the application form itself, it was mentioned that if any column is left blank or not properly replied to or the application is not accompanied by the crossed postal order of the requisite value, the application would be liable to be rejected summarily.

3. Insofar as the general vacancy is concerned, there were six applications. The application envelops were opened at 2.30 p.m. on 31.12.2004 in the presence of all the applicants. Out of these six applications, five applications were summarily rejected as the same were not properly filled in or some vital information as desired in the application was missing or the requisite documents and affidavits were not filled.

4. Insofar as the reserved vacancy was concerned, out of the two applications received, one application was summarily rejected inasmuch as the same was incomplete.

5. The petitioner was directed to appear for an interview by a letter dated 11.07.2005 issued by the respondents. The interview was to be held on 20.07.2005 before the Selection Board of the Food and Supply Department. However, when the petitioner arrived for the interview, he was not interviewed. On the other hand, he was told that the vacancy would be renotified. On the other hand, as regards the reserved vacancy, the sole person, whose application was not rejected, was interviewed and the FPS was ultimately allotted to him.

6. In the counter-affidavit filed on behalf of the respondents 1 and 2, it is indicated in paragraphs 1 to 3 of the parawise reply that since the guidelines had not been followed, the general vacancy was required to be renotified. According to the respondents, the guidelines required that after scrutiny of the applications, a deficiency memo in the format prescribed be given to the applicants if any discrepancy / deficiency was noted in the documents. The deficiency memo was required to be given to those present on the same day and delivered to others on the same day, i.e., on the last date for filing of the applications. The applicants would be required to file replies to the deficiency memo within the next five days. It was submitted that since these guidelines were not complied with in the present case it was decided to renotify the general vacancy. However, the counter-affidavit is silent with regard to the reserved vacancy which was also allotted on the very same basis. There, also, one of the applications had been summarily rejected on the ground of

deficiency and no deficiency memo had been served to the concerned applicant. There is no answer to this difference in treatment of applications for the reserved vacancy and the general vacancy.

7. In these circumstances, I find that the respondents' action in deciding to renotify the general vacancy is not correct. The petitioner had been called for an interview and he ought to have been interviewed and thereafter the application ought to have been decided on merits. Since this was not done, I direct that the respondents shall now call the petitioner for an interview and consider his application for allotment of an FPS in Circle-52 on merits. The interview would be held within three weeks and the decision be taken within two weeks thereafter.

This writ petition is disposed of accordingly.

BADAR DURREZ AHMED
(JUDGE)

April 03, 2007
δυττ